P. A. C. No. 460

PUBLIC ACCOUNTS COMMITTEE (1974-75)

(FIFTH LOK SABHA)

HUNDRED AND SIXTY-FOURTH REPORT

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 131st Report (Fifth Lok Sabha) on Paragraphs 28- 31 relating to the Ministry of Foreign Trade included in the Report of the Comptroller and Auditor General for the year 1971-72, Union Government (Civil)]

LOK SABHA SECRETARIAT
NEW DELHI

April, 1975/Vaisakha, 1897 (Saka)

Price : *Rs.* 1.20

LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA SECRETARIAT PUBLICATIONS

Sl No.	Name of Agent	Agency No.
	ANDHRA PRADESH	
1.	Andhra University General Cooperative Stores Ltd., Waltair (Visakhapatnam)	8
2.	G.R. Lakshmipathy Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri, Chittoor District.	94
	ASSAM	
3.	Western Book Depot, Pan Bazar, Gauhati.	7
	BIHAR	
4.	Amar Kitab Ghar, Post Box 78, Diagonal Road, Jamshedpur.	37
	GUJARAT	
5.	Vijay Stores, Station Road, Anand.	35
6.	The New Order Book Company Ellis Bridge, Ahmedabad-6.	63
	HARYANA	
7.	M/s. Prabhu Book Service, Nai Subzimandi, Gurgaon, (Haryana)	14
	MADHYA PRADESH	
8.	Modern Book House, Shiv Vilas Palace, Indore City.	13
	MAHARASHTRA	
9.	M/s. Sunderdas Gianchand 601, Girgaum Road, Near Princess Street, Bombay-2	6
10.	The International Book House (Private) Limited 9 Ash Lane, Mahatma Gandhi Road, Bombay-1	22
11.	The International Book Service Deccan Gymkhana Poona-4	26
12.	Charles Lambert & Company, 101, Mahatma Gandhi Road, Opposite Clock Tower, Fort, Bombay.	30
13.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.	60
14.	Deccan Book Stall, Ferguson College Road, Poona-4.	65
15.	M/s. Usha Book Depot, 585/A, Chira Bazar Khan House, Girgaum Road, Bombay-2 B.R.	5
	MYSORE	
16.	M/s. Peoples Book House, Opp. Jaganmohan Palace, Mysore-1	16
	RAJASTHAN	
17.	Information Centre, Government of Rajasthan Tripolia, Jaipur City	18
	UTTAR PRADESH	
18.	Swastik Industrial Works, 59, Holi Street Meerut City	2
19.	Law Book Company Sardar Patel Marg, Allahabad-1	48
	WEST BENGAL	
20.	Granthaloka, 5/1, Ambica Mookherjee Road Belgharia, 24 Parganas.	10
21.	W. Newman & Company Ltd. 3, Old Court House Street, Calcutta	44
22.	Firma K.L. Mukhopadhyay 6/1A, Banchharam Akrur Lane, Calcutta 12	42
23.	M/s. Mukherji Book House, 8B, Duff Lane, Calcutta-6	4

Corrigenda to the 164th Report of P.A.C. (1974-75) relating to the Ministry of Foreign Trade.

Page	Para	Line	For	Read
2	1.5	14 from bottom	Aicountant	Accountant
31	-	15	Retrospectively	Retrospectively
52	1.26	11	all based	all be based

PUBLIC ACCOUNTS COMMITTEE
(1974-75).

CHAIRMAN

Shri Jyotirmoy Bosu

MEMBERS

2. Shri S. C. Besra
3. Shri C. D. Gautam
4. Shri Pampan Gowda
5. Shri Jagannathrao Joshi
6. Shrimati Parvati Krishnan
7. Shri Y. S. Mahajan
8. Shri Bibhuti Mishra
9. Shri Paripoornanand Painuli
10. Shri Narain Chand Parashar
11. Shri H. M. Patel
12. Shri P. Antony Reddi
13. Shri Sibban Lal Saksena
14. Shri Biswanarayan Shastri
15. Shri Sunder Lal
16. Shrimati Pratibha Singh
17. Shri G. R. Patil
18. Shri V. B. Raju
19. Shri Mohammed Usman Arif
20. Shri T. N. Singh
21. Shri Sasankasekhar Sanyal
22. Shri A. K. A. Abdul Samad

SECRETARIAT

Shri B. K. Mukerjee—*Chief Legislative Committee Officer.*
Shri N. Sunder Rajan—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee having been authorised by the Committee, do present on their behalf this Hundred and Sixty-Fourth Report on Action Taken by Government on the recommendations of the Public Accounts Committee contained in their 131st Report (Fifth Lok Sabha) on Paragraphs 28—31 relating to the Ministry of Foreign Trade included in the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil).

2. On the 31st May, 1974 an 'Action Taken' Sub-Committee was appointed to scrutinise the replies from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members:—

Shri H. M. Patel—Convener

2. Shri Sasankasekhar Sanyal
3. Shri Jagannathrao Joshi
4. Shri S. C. Besra
5. Shri V. B. Raju
6. Shri Mohammed Usman Arif
7. Shri P. Antony Reddi
8. Shri Narain Chand Parashar
9. Shri T. N. Singh

3. The Action taken Sub-Committee of the Public Accounts Committee (1974-75) considered and adopt this Report at their sitting held on 25th April, 1975. The Report was finally adopted by the Public Accounts Committee on the 28th April, 1975.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations/observations of the Committee is appended to the Report (Appendix).

5. The Committee place on record their appreciation of the assistance rendered to them in this matter by the Comptroller and Auditor General of India.

NEW DELHI;
April 28, 1975.
Vaisakha 8, 1897 (S).

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the recommendations contained in their 131st Report (Fifth Lok Sabha) on the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil) which was presented to Lok Sabha on the 29th April, 1974.

1.2. Action Taken Notes have been received in respect of all the 19 recommendations/observations made in the Report.

1.3. The Action Taken Notes on the recommendations have been categorised under the following heads:

(i) *Recommendations/observations that have been accepted by Government.*

S. Nos. 10, 15, 16, 18.

(ii) *Recommendations/observations which the Committee may not desire to pursue in the light of the replies of the Government.*

S. Nos. 7, 11, 13, 14, 17.

(iii) *Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration.*

S. No. 19.

(iv) *Recommendations/observations in respect of which Government have furnished interim replies.*

S. Nos. 1, 2, 3, 4, 5, 6, 8, 9, 12.

1.4. The Committee require that final replies in regard to those recommendations to which only interim replies have so far furnished should be submitted to them expeditiously after getting them vetted by Audit.

1.5. The Committee will now deal with action taken by Government on some of the recommendations.

GRANT OF CASH ASSISTANCE TO JAIPUR METALS AND ELECTRICALS FOR EXPORT OF COPPER CONDUCTORS

Holding absolutely unjustified the grant of cash assistance of Rs. 42 lakhs to M/s. Jaipur Metals and Electricals Ltd. for export of 3,000 tonnes of copper conductors as a special case, the Committee in paragraphs 1.69 to 1.73 of their Report had observed:

"After examining the grant of cash assistance of Rs. 42 lakhs to a company (M/s. Jaipur Metals and Electricals Ltd., Jaipur) for the export of 3,000 tonnes of copper conductors as a special case, the Committee cannot but hold it as absolutely unjustified for the following reasons:

(i) The company had on 24-6-68 submitted a statement which indicated a loss of Rs. 40.83 lakhs. Subsequently when the Government Cost Accountant went into the company seemed to have given different deliberately inflated data/information on the basis of which a loss of Rs. 68 lakhs was made out. (This included Rs. 14 lakhs of normal overheads which are admittedly not to be taken into account.)

(ii) The Company had claimed that it had to reduce its original quotation in the face of severe competition from foreign firms because of devaluation of sterling and it was prepared to substantiate it my documentary evidence. This was to be verified by the Cost Accountant. The Cost Aicountant had, however, pointed out in his report of January, 1969 that there was no means to verify by documentary evidence the existence of any lower foreign offer or the company being compelled to reduce its price due to such foreign competition. In this connection the committee find that under item 3 of the conditions of the Agency Agreement executed retrospectively from 1-1-67 with a firm established in the country to which the exports took place, the company's agent was required to send regular reports as to the demands, prices, the market situation and "the activity of the competition". In the absence of any such report regarding the competition, the claim of the company can only be regarded as false and motivated.

(iii) The company had sent its quotation on 1st September, 1967 for 2,000 tonnes of copper conductors to its agent @ 1310 dollars per tonne c.i.f. and on 2nd September, 1967, the agent firm had sent the quotation to the foreign purchasing organisation of 1250 dollars per tonne c.i.f. The agency agreement stipulated that the agent might submit quotations based on prices and conditions fixed by the company only. The Committee have been informed that the quotation dated 1-9-1967 was submitted to the agent firm by one of the company's senior executives who was then in the foreign country concerned and that the subsequent reduction was given by the agent firm in consultation with the companies representative. It is not, however, clear who was the senior executive present in the foreign country at that time. (It could be presumed that he is one of those connected with the agent firms). On further negotiations the rate was reduced as ranging from 1237.50 dollars to 1241.50 dollars. The justification for the successive reductions does not appear to have been given into by Government.

(iv) The rates quoted by the firm were based on the price of £ 350 per ton of copper bars in the London Metal Exchange and the final contract price was to be adjusted according to copper price variation clause. However, by a separate agreement dated 28th May. 1968, the parties had amended the original contract changing the base price of copper in London Metal Exchange from £ 350 to £408, s6, d8. This accounted for a less realisation of Rs. 31.5 lakhs. The company had explained that this had to be done in order to increase the scope of the contract from 2,000 tonnes to 3,000 tonnes. However, there have been no pressure from the foreign buyer to change the basis and on the contrary it is seen from the letter of intent of the foreign organisation dated 31st January, 1968 sent to the agent of the company that they have agreed to the basic copper price of £ 350 even in regard to the additional supply of 1,000 tonnes. In any case there was no justification to change the basis, as the price for the initial 2,000 tonnes was quoted before the devaluation of £ sterling in November, 1967.

(v) The Committee understand that the levels of cash compensatory support are fixed by the Government on the marginal costing criterion without taking into account certain elements such as commission to agents. However, in this case the cost is computed taking into account the agency commission of Rs. 17.19 lakhs. According to the Cost Accountant there is no evidence of the foreign firm working as an agent of the company, in the correspondence exchanged between them.

(vi) The Committee find discrepancy in the specification and quantity of the copper conductors to be exported and the conductors actually produced for exports during the years 1968-69 and 1969-70.

(vii) The Cost Accountant had suggested that since most of the costs detailed in his report were estimates and since the major portion of the cost was still then to be incurred, the company might be asked to submit details of the actual expenses duly certified by its auditors after completion of the order. Strangely, the company is stated to have expressed its inability to segregate expenses relating to the particular contract. This was obviously done to prevent exposure.

The Committee also note with serious concern that the whole deal is full of malpractices, concoction and fraud and on this basis penal action should be initiated immediately under advice to them. It should be explained why this has not been done so far. It is seen from the contract executed between the foreign purchasing organisation and the Indian company that the same person represented the company as well as its agent. The copy of the contract does not even indicate the date on which it was executed although it is stated to have been executed on 21st January, 1968. Although the agent seems to have signed the contract on behalf of the India company, the agency agreement itself is stated to have been executed on 22-2-1968, a month after the purchase contract was signed. A copy of the so-called agency agreement furnished to the Committee does not indicate the date on which it was executed nor does it indicated the persons who signed the agreement on behalf of the company and its agent.

It is also seen from the letter dated 20-1-1969 from another foreign firm to the Indian company that the former were to be the agent and that because the other firm had signed the contract with the foreign organisation on behalf of the Indian company, the agency agreement had to be executed with it. Further, the permission of the Reserve Bank of India for entering into the agency agreement had been given only in April, 1969 and, therefore, it is certain the agency agreement could not have been executed before that date.

The two foreign firms had two Indian citizens as partners each and one of the partners was common to both. The other partner in the firm which acted as an agent of the Indian Company subsequently became a director of the latter w.e.f. 25th June, 1968 and he had participated in the discussion with the Government in connection with the grant of the cash assistance. Surprisingly, in his income-tax returns he had not indicated his association with the foreign firm. As there appears to be a clear case of fraud foreign firm nor had he returned any income from the and evasion of tax, the matter requires a thorough probe and immediate action under advice to the Committee. If involvement of any officials is found that too should be taken care of.

In view of all that is detailed above, the Committee strongly feel that the Indian company and the two foreign firms were of same origin, ownership and control and that there had been extreme manipulation/misrepresentation to make unlawful gains. They accordingly desire that the case should be handed over to the CBI and Foreign Exchange Enforcement Directorate immediately for a detailed probe with the instructions that it should be done expeditiously with a view to launching prosecution against the offenders including Government officials who were responsible to take care of country's interests. The Committee would await a report in this regard within three months.

It is also clear that the proposals of the company and the various claims made and documents produced by it have not at all been carefully scrutinised by the various authorities of Government obviously to give advantage

to the offender. The Committee, therefore, desire that because it is a serious economic offence on the basis of the CBI and Foreign Exchange Enforcement Directorate investigations, severe and exemplary action should be taken against the officers for their lapses under advice to them."

In their reply dated the 12th August, 1974, the Ministry of Commerce informed the Committee that "through separate communications addressed to each, the matter has been referred to the C.B.I. and the Foreign Exchange Enforcement Directorate for detailed investigation and report." Subsequently on 20th December, 1974, the Ministry of Commerce, repeating the earlier information, stated that "the Public Accounts Committee will be informed when the results of investigations become known." Again on 18th March, 1975, the Ministry stated: "As regards the latest position, it may be stated that on receipt of the complaint, the C.B.I. Officers collected all the connected files and papers on 10-1-1975 for detailed investigation."

1.8. The Committee while commenting adversely against the grant of cash assistance of Rs. 42 lakhs to M/s. Jaipur Metals and Electricals, had inter alia **observed that "the whole deal is full of malpractices, concoction and fraud and on this basis penal action should be initiated immediately under advice to them. It should be explained why this has not been done so far." The Committee had further observed that "as there appears to be a clear case of fraud and evasion of tax, the matter requires a thorough probe and immediate action under advice to the Committee. If involvement of any officials is found, that too should be taken care of." Since there had been "extreme manipulation/misrepresentation to make unlawful gains," the Committee had desired that the case should be handed over to the C.B.I. and Foreign Exchange Enforcement Directorate immediately for a detailed probe with the instructions that it should be done expeditiously with a view to launching prosecution against offenders including Government officials who were responsible to take care of the country's interests. The Committee had also observed that "because it is a serious economic offence, on the basis of C.B.I. and Foreign Exchange Enforcement Directorate investigations, severe and exemplary action should be taken against the officers for their lapses under advice to them.**

1.9. This recommendation was sent to the Ministry on 29th April, 1974. All that the Ministry appears to have done till March, 1975,

is to collect all the papers & files, which they did only on 10-1-1975. This is most deplorable and gives rise to serious suspecion of malpractice in the Ministry itself. The Minister should be kept informed and the outcome of the action taken should be reported to the House within 3 months and it should also be reflected in the annual report of the Ministry.

1.10. The economic offences committed relating to the aforesaid deal are very serious. Every effort should therefore be made to see that investigation is completed expeditiously and further penal action taken thereafter immediately. C.B.I. should be asked to give this investigation a very high priority. The Committee desire the Government to ensure that appropriate action is taken against all concerned in the various suspected malpractices at the earliest possible date. The Committee would like to be kept informed of the progress made in this case.

EXPORT OF 'SILVER OXIDE' BY DADHA DRUGS AND PHARMACEUTICALS, MADRAS.

Commenting adversely on the grant of cash assistance to the extent of Rs. 10.50 lakhs and import replenishment licence for another sum of Rs. 10.50 lakhs to M/s. Dadha Drugs & Pharmaceuticals, Madras, for exporting 'silver oxide' on the ground that it was a 'drug', the Committee had made the following observations/recommendations in paragraphs 2.33 and 2.35 to 2.37 of their Report:

> "2.33. Silver essentially serves as a second line of free foreign exchange reserve for our country and its export is wholly against national interest. A firm in Madras (M/s. Dadha Drugs & Pharmaceuticals Pvt. Ltd.) had been exporting silver nitrate. Silver nitrate is a silver salt with 63.5 per cent silver content. Metallic silver can be easily recovered from silver nitrate. An amendment to the Export Control Order, 1968 was proposed by the Chief Controller of Imports and Exports to ban export of "manufactures and products wholly or mainly of silver including chemicals." The amendment was, however, carried out by the Ministry of Commerce w.e.f. 26th January, 1969 in consultation with the Industrial Adviser to read as "manufactures and products wholly or mainly of silver and silver salts with more than 50 per cent silver content" leaving a loophole in the law which could be exploited by

unscrupulous exporters of silver. This prohibited export of only silver nitrate which is a silver salt. Immediately thereafter, between the period February to June, 1969, the Madras firm exported Rs. 52.51 lakhs worth of silver oxide to an European Country. The silver metal content of solver oxide is 93.1 per cent and is very easily recoverable. To plug the loophole in the Export Control Order, 1968 it had to be further amended on 23rd July, 1969 to prohibit also export of silver chemicals and compounds with more than 50 per cent silver content. The Committee are very much concerned that a loophole was kept while initially amending the Export Control Order which was successfully exploited Internationally by the firm to move silver out of the country in the fuise of silver oxide. They desire that responsibility should be fixed for this lack of case in drafting the amendment and action taken under advice to them."

"2.35. It appears that the firm had indulged in serious malpractices under the very nose of the Government as indicated below:—

(i) It seems that the foreign buyer required the product to be packed in polyethylene jars. Although according to BIC 1934 specification, silver oxide for being used as a madicine was required to be stores in "amber-tinted bottles."

(ii) The original specification given in the purchase order as "BT and Merck Index 7th ed." applicable to chemical seems to have been substituted by "BPC 34" without being attested by the foreign buyer.

(iii) The Export Control Order was initially amended on 22nd January, 1969. Within a month and 4 days thereafter the firm finalised the deal to export 14,000 Kgs. of silver oxide valued at Rs. 58.45 lakhs with the foreign firm. Within another month they obtained the necessary licence from the state Drugs Controller and formal orders from the foreign firm and received from the bankers of the exporter advice that letter of credit had been opened. Further, 4 consignments were exported between the period 24th March, 1969 to 31st March 1969."

"2.36. Thus in the words of Officer on Special Duty "the whole thing was so neatly planned, conspired and executed to defraud the Government and the party succeeded in exporting huge quantities of silver in the shape of silver oxide in a few months." There seems to have been a multiple collusion with the foreign buyer. The Committee understand that years ago silver oxide was being used as a drug for treatment of hysteria but is no longer used so. The utility of such a huge quantity (roughly 11 crores doses) as drug imported into a small country within such a short period from a firm which did not export it earlier, is seriously in doubt. Further, it appears that the exports were under-valued. The Committee fail to understand how unless some officials were involved it would have been possible for the exporters to complete their job so successfully. The Committee would, therefore, very much require that the matters should be immediately handed over to the CBI and Enforcement Branch for a probe. Persons found guilty of such a heinous economic offence should get exemplary punishment.

2.37. Arising out of this case is the basic question how import replenishment could be allowed for an item of export which does not have any import content. It is obvious that such items should be altogether excluded from the purview of the import replenishment scheme. Surprisingly, in this case the firm made over the import replenishment licence for import of lactose to foreign pharmaceutical firms operating in India. The Committee fail to understand how import of lactose could have helped expansion of production and the exports of the firms concerned. This calls for an immediate explanation. The Committee desire that the Ministry of Commerce should carefully go into these points so as to take steps to ensure that export incentive is not abused in any manner. Economic offence should be curbed ruthlessly and none should be spared."

As regards the Committee's recommendation for 'fixing responsibility for the lack of care in drafting the amendment and action taken under advice to them' the Ministry in their reply dated the 18th March, 1975, have informed the Committee that "CCI&E has addressed a communication to the Central Board of Excise and Customs and a reply from them is awaited." Regarding other observations/recommendations of the Committee, the Ministry of Com-

merce in their reply dated 19th November, 1974 and 9th December, 1974 have stated:

Re: Para 2.35 and 2.36.

"It has been decided to refer the case to the C.B.I. and Enforcement Branch as recommended by the Public Accounts Committee. The letters to these authorities are under issue."

Re: Para 2.37.

1. The objective of the import policy for Registered Exporters is to provide, by way of replenishment, the imported materials required for the manufacture of the products exported. Therefore, the import policy does not, as a general rule, include products for export which do not need any import assistance. However, in respect of 'composite products' i.e. those covering a large variety of individual specifications such as 'Drugs and Drugs Intermediates', it has not been possible from the operational and administrative angles to specify a separate import replenishment percentage for each item. In cases, therefore, the rate of import replenishment has been determined as an average which may be more than the actual requirement of the industry for some items and less for certain other items. The replenishment percentage in such cases, therefore, does not necessary represent the correct import content in respect of all the individual items covered by the Serial Number but from the point of view of smooth implementation of the policy, this has been considered as a feasible way to operate upon.

2. Having regard to the observations made by the Public Accounts Committee, the import policy against the exports of Drugs and Drugs Intermediates (Sl. No. B. 11.1 in the Import Policy for Registered Exporters for 1974-75) has been reviewed, so as to exclude from its purview the items which do not require import replenishment at 15 per cent of the f.o.b. value of exports admissible for Drugs and Drugs Intermediates falling under Sl. No. B. 11.1 A copy of the Public Notice No. 163-ITC(PN)/74 dated 22nd October, 1974, is attached. (Appendix .....)

3. In the matter of imports, a certain amount of flexibility has been provided under the import policy for Registered Exporters. Apart from allowing imports of raw materials and components used directly in the manufacture of the exported products, the exporters and nominee-manufacturers are also permitted to import items which may not have gone directly into fabrication or manufacture of the product exported. A manufacturer-exporter or a nominee-manufacturer can be allowed to import against his REP licence items permissible to him as an actual user. A part of these REP entitlement is also allowed to be utilised for import of machinery, instruments, tools, fixtures and spare parts. The reason for providing such flexibility is to help strengthen the production base so as to generate more surpluses for exports. Although the basic concept of the Registered Exporters policy is to replenish the import content in the products exported, it is difficult to isolate export production from the overall production base. It is in this context that the industry is allowed to make optimum use of its export earnings. The Policy is, however, kept under review so as to minimise possibilities of any abuse. Already, the following steps have been taken to minimise opportunities for abuse:—

(i) import of a number of items considered to be sensitive, have been disallowed under the provision of flexibility;

(ii) Items are allowed to be imported against a REP licence on the basis of the actual user licence, only where the actual user licence pertains to the same Product Group to which the REP licence belongs;

(iii) face value restrictions have been imposed on the items where indigenous production has developed to meet a sizeable part of the domestic demand; and

(iv) a value limit has been imposed upto which only the manufacturer can obtain nominations.

1.12. The Committee had expressed their concern that "a loophole was kept while initially amending the Export Control Order which was successfully exploited internationally by the firm to move silver out of the country in the guise of silver oxide". The

Committee had accordingly desired that "responsibility should be fixed for this lack of care in drafting the amendment and action taken under advice to them".

The Committee are distressed to note that the question of fixing responsibility in leaving the loophole in the drafting of the Export Control Order is hanging fire for an inordinately long time, although the findings of the Committee were made known to the Government on the 25th April, 1974. The Committee require that the final action in probing the matter and fixing the responsibility should be completed within 3 months.

1.13. The Committee, while pointing out that in this case "there seems to have been a multiple collusion with the foreign buyer" and that "it appears that the exports were under-valued", had observed "how unless some officials were involved, it would have been possible for the exporters to complete their job so successfully". The Committee had therefore desired that "the matter should be immediately handed over to the C.B.I. and Enforcement Branch for a probe. The persons found guilty of such a heinous economic offence should get exemplary punishment" The Committee note that the matter was referred to C.B.I. and Enforcement Branch some time in October, 1974, after a lapse of about 6 months. The Committee have not till date been informed how the matter stands. The Committee deplore this attitude and require the Government to take action so that the investigation is expedited. The outcome should be reported to the House within 3 months. The Committee would emphasize that in matters of economic offences, probes should be completed expeditiously and action taken thereon at the earliest. The Committee would await the results of C.B.I. investigations in the matter.

1.14. The Committee had also observed that "Arising out of this case is the basic question how import replenishment could be allowed for an item of export which does not have any import content. It is obvious that such items should be altogether excluded from the purview of the import replenishment schemes". The Committee had desired the Ministry of Commerce "to take steps to ensure that export incentive is not abused in any manner. Economic offences should be curbed ruthlessly and none should be spared". The Committee note that the Government have taken the following "steps to minimise opportunities for abuse" of export incentive:—

(i) Import of a number of items, considered to be sensitive, have been disallowed under the provision of flexibility;

(ii) items are allowed to be imported against a REP licence on the basis of the actual user licence, only where the actual user licence pertains to the same Product Group to which the REP licence belongs;

(iii) face value restrictions have been imposed on the items where indigenous production has developed to meet a sizeable part of the domestic demand; and

(iv) a value limit has been imposed up to which only the manufacturer can obtain nominations.

1.15. The Committee, however, do not understand why the Government has not found it possible to go the whole way and declare that no import replenishment licence would be granted against the export of those commodities which do not have any import content and also that such licences would not be allowed to be transferred or utilised for import of machinery, instruments, tools, fixtures and spare parts which are not required for the production or processing of export commodities. The Committee desire that the Government should re-examine the question and take action along lines recommended by the Committee unless there are overwhelming reasons against it. It should be reflected in the Annual Report of the Ministry.

III

GRANT OF CASH ASSISTANCE FOR EXPORT OF DEHYDRATED ONIONS

The Committee, while commenting on the quantum of cash assistance granted to a firm of Delhi for export of dehydrated onions, had observed in paragraphs 3.36 and 3.37 of their Report:

> 3.36. The Committee are unable to appreciate the manner in which the grant of cash assistance for export of fresh and processed fruits and vegetables was conceived in June, 1970 and the assistance of 20 per cent sanctioned retrospectively for one unit in May, 1971 for export of dehydrated onions for the period from 18th July, 1970 to 31st March, 1972. The unit, however, exported only onions worth Rs 4.76 lakhs upto July, 1971 as against a target of Rs. 25 lakhs accepted by it and yet the assistance was continued unabated. Significantly enough, the production during the year 1970 was not reported to the DGTD by the unit.

The production during 1971 and 1972 was 548 tonnes. The unit exported only 130 tonnes up to the end of 1971-72 and there was no export thereafter. Thus a major part of the production seems to have been sold in internal market. Surprisingly, at the time of import of machinery by this unit no export obligations as such were imposed on the unit. The Committee are totally unable to accept the explanation that "presumably this was because the product namely dehydrated onions was essentially an item for export and practically there was hardly any market for it internally". This presumption is obviously wrong in view of what actually happened.

3.37. Incidentally the Committee understand from Central Food Technological Institute, Mysore that the yield of dehydrated onions will be 11 per cent on the basis that the moisture content of the finished product is less than 6 per cent. The Government, however, seems to have accepted the claim of the unit on the basis of 9 per cent yield although the moisture content was permitted upto 8 per cent. In view of this, justification for the quantum of cash assistance should be gone into. Further, the profits made by this unit should be assessed properly from the tax angle.

As regards the justification for the quantum of cash assistance to the firm and proper assessment of its profits from tax angle, the Ministry of Commerce in their reply dated the 12th March, 1975, have stated :—

"The yield of onions depends largely on the variety and quality of fresh onions and their solid contents. A group of officers visited the factory and verified from their records that their claim of 9 per cent yield was correct. The Cost Accounts Branch of the Ministry of Finance has been requested to undertake cost study of a few units manufacturing dehydrated onions. The point raised in the above recommendation will also be examined by the Cost Accounts Branch.

The Ministry of Finance have since confirmed that the profits made by the Unit have been assessed properly from tax angle."

1.18. In this case, the firm had claimed the cost of production of dehydrated onion on the basis of 9 per cent yield with a moisture content permissible upto 8 per cent. The Government had accepted this claim for calculating rate of cash assistance. However, the Committee were given to understand by the Central Food Technological Institute, Mysore, that the yield of dehydrated onion was 11 per cent on the basis that the moisture content of the finished product was less than 6 per cent. In view of this, the Committee had desired that "justification for the quantum of cash assistance should be gone into". The Committee note that the Cost Accounts Branch of the Ministry of Finance has been requested by the Ministry of Commerce to undertake a cost study of a few units manufacturing dehydrated onions and that the point raised by the Committee will be examined by the Cost Accounts Branch. The Committee desire that the result of such study should be communicated to them at the earliest. The Committee desire that the cost studies to be undertaken by the Cost Accounts Branch of the Ministry of Finance should go into the economics of production not only of exporting units but also of some atleast of the units which produce dehydrated onions for home consumption.

GRANT OF CASH ASSISTANCE FOR EXPORT OF BAMBOO PULP

Commenting on the justification for the grant of cash assistance to the Central Paper Mills for exporting bamboo pulp, the Committee had, in paragraphs 4.30 and 4.33 of their Report, observed :

> "4.30. The Committee find that a cash assistance of 10 per cent for exports upto 5,000 tonnes and an additional assistance of 5 per cent for export exceeding 5,000 tonnes of bamboo pulp were sanctioned to a company for the year 1969-70. Evidently because this sanction was not quite clear, the concerned Export Promotion Council informed the company that the assistance of 10 per cent continued during 1970-71 also. However, by a subsequent sanction issued by Government in March, 1972 the assistance continued upto 31st March, 1973. The Committee have expressed their great dissatisfaction over the retrospective grant of cash assistance in an earlier section. The retrospective sanction issued in this case resulted in payment of Rs. 12.25 lakhs to the company. This amounts to allowing a plunder of our meagre resources.

4.33. Apparently there was no justification for the grant of cash assistance in this case. The Committee understand that the cash assistance of 10 per cent was granted accepting the marginal cost of production of Rs. 862 per tonne and the average f.o.b. realisation at Rs. 750. The average realisation was worked out on the basis that the realisation would be Rs. 862.5 and Rs. 652 in respect of exports to Thailand and Philippines, respectively. Thus if all the exports had been to Thailand there would appear to be no case for cash assistance. The Committee would like to know why this was not ensured and what was the actual quantum of exports to Thailand and Philippines as well as the average realisation per tonne."

The Ministry of Commerce in their reply dated 12th November, 1974 have stated :

"Bamboo Pulp" is not separately specified in the monthly statistics, of Foreign Trade published by the Director General, Commercial Intelligence and Statistics, Calcutta. However, the statistics furnished by the Chemicals and Allied Products Export Promotion Council, Calcutta based on the returns received from the exporters shows the following exports figures to Thailand during 1969-70 and 1970-71 with the f.o.b. realisation per M. Tonne:—

Year	Country	Qty. (M. T.)	Value '000	F.O.B. Price per M. T.
1969-70 . .	THAILAND	3080	2997·4	973
1970-71 . .		591	646·1	1093

2. During the subsequent years no exports were made to Thailand. Bamboo Pulp was not exported to Philippines at all during any of the above years. It may be stated that the rate of cash assistance is determined on the basis of the data furnished by the exporters and recommended by the Export Promotion Councils and it is not always possible to anticipate the final realisation which would be made on exports. In this particular case, the date furnished at the time of determining the rate of cash assistance showed that there would be a loss on the exports. Since the cash assistance was no longer justified on this particular item, Government has withdrawn it with effect from the 8th January, 1974.

3. As regards the observations of the Public Accounts Committee as to why it was not ensured that all the exports were to Thailand, it may be stated that it is not always possible to ensure all the exports to a particular country in a free international economy where there is a free play of demand and supply."

1.21. In this case, the Committee had found that "a cash assistance of 10 per cent for exports upto 5,000 tonnes of bamboo pulp were sanctioned to the company for the year 1969-70. Evidently because this sanction was not quite clear, the concerned Export Promotion Council informed the company that the assistance of 10 per cent would be continued during 1970-71 also. However, by a subsequent sanction issued by Government in March, 1972 the assistance continued upto 31st March, 1973. The retrospective sanction issued in this case resulted in payment of Rs. 12.25 lakhs to the company".

1.22. The Committee had expressed the view that there was no justification for the grant of cash assistance in this case. The Committee had been given to understand that the cash assistance of 10 per cent was granted to the Central Paper Mills accepting the marginal cost of production of Rs. 862 per tonne and the average f.o.b. realisation at Rs. 750. The average realization was worked out on the basis that the realisation would be Rs. 862.5 and Rs. 652 in respect of exports to Thailand and Philippines, respectively. The Committee had felt that "if all the exports had been to Thailand, there would appear to be no case for cash assistance". The Ministry of Commerce, on the basis of the statistics furnished by the Chemicals & Allied Products Export Promotion Council, Calcutta, have furnished the following export figures to Thailand during 1969-70 and 1970-71 with the f.o.b. realisation per M. Tonne:

Year	Country	Qty. (M. T.)	Value '000	f.o.b. price per M. T.
1969-70	Thailand	3,080	2,297·4	973
1970-71		591	646·1	1093

1.23. The Ministry have also stated that "during subsequent years no exports were made to Thailand and that bamboo pulp was not exported to Philippines at all during any of the above years". The Ministry have also stated that "the rate of cash assistance is

determined on the basis of the data furnished by the exporters and recommended by the Export Promotion Councils and it is not always possible to anticipate the final realisation which would be made on exports and that in this particular case, the data furnished at the time of determining the rate of cash assistance showed that there would be a loss on the exports''. The Committee's apprehension has now been confirmed. The exporting mill did not suffer any loss in export of bamboo pulp. Rather, as seen from the f.o.b. realisations, the Central Paper Mills had made profits out of the export rather than suffered any loss.

1.24. From the reply given by the Ministry, it is evident that reliance should not have been placed so implicitly on the data furnished by the exporters or the Export Promotion Council.

1.25. In this case, it is clear that the exporter obtained a much higher price than was indicated to the Ministry and had the Ministry been aware of this, no cash assistance would have been payable.

1.26. The Committee require that the rate of cash assistance should not at all be based entirely on the data furnished by the exporters or by the Export Promotion Councils, but be determined by a meticulous examination of all the relevant facts relating to the cost of production as also of international prices should be carried out.

1.27. The Committee also require that grant of cash assistance should be subjected to condition that in case the f.o.b. realisation is higher than f.o.b. cost shown, the amount paid to the exporters shall be recovered proportionately.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

"Arising out of this case is the basic question how import replenishment could be allowed for an item of export which does not have any import content. It is obvious that such item should be altogether excluded from the purview of the import replenishment scheme. Surprisingly, in this case the firm made over the import replenishment licence for import of lactose to foreign pharmaceutical firms operating in India. The Committee fail to understand how import of lactose could have helped expansion of production and the exports of the firms concerned. This calls for an immediate explanation. The Committee desire that the Ministry of Commerce should carefully go into these points so as to take steps to ensure that export incentive is not abused in any manner. Economic offence should be curbed ruthlessly and none should be spared."

[Sl. No. 10. (Para 2.37) of Appendix II to 131st Report of PAC (Fifth Lok Sabha)].

Action Taken

1. The objective of the import policy for Registered exporters is to provide, by way of replenishment, the imported materials required for the manufacture of the products exported. Therefore, the import policy does not, as a general rule, include products for export which do not need any import assistance. However, in respect of 'composite products' i.e. those covering a large variety of individual specifications, such as 'Drugs and Drugs Intermediates', it has not been possible from the operational and administrative angles to specify a separate import replenishment percentage for each item. In such cases, therefore, the rate of import replenishment has been determined as an average which may be more than the actual requirement of the industry for some items and less for certain other items. The replenishment percentage in such cases, therefore, does not necessarily represent the correct import content in respect of all the individual items covered by the Serial Number but from the point of view of smooth implementation of the policy, this has been considered as a feasible way to operate upon.

2. Having regard to the observations made by the Public Accounts Committee, the import policy against the exports of Drugs and Drugs Intermediates (Sl. No. B. 11.1 in the Import Policy for Registered Exporters for 1974-75) has been reviewed, so as to exclude from its purview the items which do not require import replenishment at 15 per cent of the f.o.b. value of exports admissible for Drugs and Drugs Intermediates falling under Sl. No. B. 11.1. A copy of the Public Notice No. 163-ITC(PN)/74 dated 22-10-1974, is attached.

3. In the matter of imports, a certain amount of flexibility has been provided under the import policy for Registered Exporters. Apart from allowing imports of raw materials and components used directly in the manufacture of the exported product, the exporters and nominee-manufacturers are also permitted to import items which may not have gone directly into fabrication or manufacture of the product exported. A manufacturer-exporter or a nominee-manufacturer can be allowed to import against his REP licence items permissible to him as an actual user. A Port of the REP entitlement is also allowed to be utilised for import of machinery, instruments, tools, fixtures and spare parts. The reason for providing such flexibility is to help strengthen the production base so as to generate more surpluses for exports. Although the basic concept of the Registered Exporters policy is to replenish the import content in the products exported, it is difficult to isolate export production from the overall production base. It is in this context that the industry is allowed to make optimum use of its export earnings. The policy is, however, kept under review so as to minimise possibilities of any abuse. Already, the following steps have been taken to minimise opportunities for abuse:—

(i) Import of a number of items, considered to be sensitive, have been disallowed under the provision of flexibility;

(ii) Items are allowed to be imported against a REP licence on the basis of the actual user licence, only where the actual user licence pertains to the same product Group to which the REP licence belongs;

(iii) face value restrictions have been imposed on the items where indigenous production has developed to meet a sizable part of the domestic demand; and

(iv) a value limit has been imposed up to which only the manufacturer can obtain nominations.

[Ministry of Commerce D.O. No. OSD/PAC/Recom/86/75 dated 16th January, 1975]

(TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY PART-I SECTION I)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE

IMPORT TRADE CONTROL

PUBLIC NOTICE NO. 163-ITC (PN) /74

New Delhi, Dated the 22nd October, 1974

SUBJECT: *Import Policy for Registered Exporters for April 1974—March 1975 Export of drugs and drug intermediates falling under S. No. B. 11.1.*

Attention is invited to the import policy for Registered Exporters for the period April 1974—March 1975 as contained in the Import Trade Control Policy (Red Book Volume II) published under the Ministry of Commerce Public Notice No. 44 ITC (PN) /74 dated the 2nd April, 1974.

2. The policy pertaining to the exports of drugs and drugs intermediates (not otherwise specified) falling under S. No. B. 11.1 has been indicated at pages 102—104 of the aforesaid Red Book. It has been decided that the export of the following four items will not qualify for import replenishment admissible against S. No. B. 11.1:—

(i) Emetine Alkaloids.

(ii) Strychnine alkaloids/salts.

(iii) Salts and other derivatives of nux vomica alkaloids/ Brucine.

(iv) Berberine Hydrochloride.

3. The following items which have been classified under S. No. B. 11.1 in Section IV of the aforesaid Red Book may be deemed to have been deleted therefrom:—

(i) Barium Sulphate I.P.

(ii) Cardiotonic.

(iii) Dettol (The entry "Liquid Anticeptic" will remain).

(iv) Undecylenic acid B.P.

(v) Yeast tablets.

4. After the existing S. No. B. 11.12, the following new serial number may be inserted under columns 1 to 5 at page 104 of the said Red Book:—

1	2	3	4	5
B 11·13	Surgical Dressings	2%	As per actual user licence issued since 1st April, 1972	The products falling under this serial number will be eligible for import replenishment only if produced by a manufacturer licensed under the Drugs and Cosmetics Act, 1940 (as amended).

5. The following items which have been classified under S. No. B. 11.1 in Section IV of the aforesaid Red Book may be deemed to have been re-classified under S. No. B. 11.13:—

(i) Band elastic adhesive plastic.

(ii) Bandages, medicated (manufactured by licensed manufacturer under the Drugs Act).

(iii) Cat-gut chromic.

(iv) Cat-gut plain foil pack or in glass tubes.

(v) Ethicon surgical sutures.

(vi) Non-sterilised surgical cat-guts made in accordance with B.P.C. 1949.

(vii) Surgical dressings.

(viii) Zinc oxide adhesive plaster.

Sd/-

(B. D. KUMAR)

Chief Controller of Imports & Exports.

Copy to all Concerned,

By order etc.,

Sd./-

(TAKHAT RAM)

Dy. Chief Controller of Imports & Exports

For Chief Controller of Imports & Exports.

(Issued from File No. 1/7/REP/B. II/74 EPC)

Recommendation

In view of what has been brought out above the Committee stress that Ministry of Commerce should fully examine the matter carefully in consultation with the Ministry of Industrial Development the existing policies and procedures with a view to re-orienting them in a manner that would subserve national interest better. Further, the Committee find that no cash assistance is given for export of processed vegetables other than onions. It should also, therefore, be examined whether any further incentive could be given linking it to a specified quantum and value of export so that the capacity created at such a heavy cost in foreign exchange could earn adequate foreign exchange for the country. The Committee would await a detailed report regarding steps proposed to be taken by Government.

[S. No. 15 (Para 3.41) of Appendix II to the 131st Report of PAC (Fifth Lok Sabha)]

Action Taken

Cost study of the units producing dehydrated products is being undertaken to assess the assistance required. As regards other vegetables and products, it would be necessary to undertake survey in foreign countries which are likely to have potential markets for these products in order to find out the scope for promoting exports as also incentives required to create new markets. It is proposed to send Sales-*cum*-Study Teams to Middle East countries to develop markets for these products. Ministry of Agriculture proposed to set up Fruit Corporation to undertake export of fruits and processed vegetables.

[Ministry of Commerce O.M. No. 3/45/74-EP-Agri. III dated 12th March, 1975]

Recommendation

The committee find that a cash assistance of 10 percent for exports upto 5,000 tonnes and an additional assistance of 5 percent for exports exceeding 5,000 tonnes of bamboo pulp were sanctioned to a company for the year 1969-70. Evidently because this sanction was not quite clear, the concerned Export Promotion Council informed the Company that the assistance of 10 percent continued during 1970-71 also. However, by a subsequent sanction issued by Government in

March, 1972 the assistance continued upto 31st March, 1973. The Committee have expressed their great dis-satisfaction over the retrospective grant of cash assistance in an earlier section. The retrospective sanction issued in this case resulted in payment of Rs. 12.25 lakhs to the Company. This amounts to allowing a plunder to our meagre resources.

[S. No. 16 (Para 4.30) of Appendix II to the 131st Report of PAC (Fifth Lok Saha)]

Action Taken

The contents have been brought to the notice of all concerned.

This has the approval of Secretary.

[Ministry of Commerce D.O. No. 11/53/74-EP (CAP) dated 4-3-1975].

Recommendation

The grant of cash assistance with an added incentive for larger exports in this case must have clearly acted as a disincentive for making the production acceptable internally and what is more it must have also necessitated continued import of the required variety of bamboo pulp at a higher cost, even by the constuents of the same Company. It was in that sense counter productive. The Committee therefore require that grant of cash assistance for such exports should be stopped forthwith.

[S. No. 18 (Para No. 4.32) of Appendix II to the 131st Report of PAC (Fifth Lok Sabha)].

Action Taken

The cash assistance on the export of bamboo pulp has since ben withdrawn *vide* this Ministry's letter No. 12(8)/73-EAC dated 8th January, 1974 (copy enclosed).

This has the approval of the Secretary.

[Ministry of Commerce D.O. No. 11/53/74-EP(CAP) dated 4-3-75.]

No. 12(8)/73-EAC

GOVERNMENT OF INDIA

MINISTRY OF COMMERCE

New Delhi, the 8th January 1974.

The Secretary,

Chemicals & Allied Products Export Promotion Council,
14/I-B, Ezra Street, Calcutta.

The Secretary,

Basic Chemicals, Pharmaceuticals
& Soaps Export Promotion Council,
7-Cooperage Road, Bombay-25 DD.

The Secretary,

Plastics & Linoleums Export Promotion Council,
254-D2, Dr. Annie Besant Road, Bombay-25 DD.

SUBJECT.—*Cash Assistance against exports of Chemicals, Plastics and paper products—Amendment No. 40.*

Dear Sir,

Please refer to this Ministry's letter No. 12(3)/69-EAC dated the 24th December, 1969, as amended from time to time, regarding cash assistance against exports of Chemicals, Plastics and paper products.

2. In modification of all these instructions issued so far, it has been decided to withdraw the cash assistance on exports of the following products:

S. No. in the statement enclosed with the letter dated 24-12-1969, as amended from time to time	Description of Export Produc.
B. 66·2.	Paper board (including star boards and mill boards).
B. 66·3.	Paper not elsewhere specified.
B. 66·5.	Tissue Paper, other than cigarette tissue paper.
B. 67·1.	Other articles not elsewhere specified, made mainly of paper, special paper or card boards, and boards and packaging and paper conversions made out of paper, special paper, boards and packaging itmes made out of any such materials, including containers, wrappers, boxes, bags, etc. (without contents).
B. 67·2.	Account Books.
B. 67·3.	Exercise books.
B. 67·4.	Envelops and writing pads.
BB. 6	Bamboo pulp.

Accordingly the entries at S. Nos. B. 66.2; B. 66.3; B. 66.5; B. 67.1; B. 67.2; B. 67.3; B. 67.4 and BB. 6 in the statement enclosed with the letter dated 24th December, 1969, as amended from time to time, and referred to above, may be deleted. Cash assistance on exports of the products covered by these items will *not* be admissible henceforth. This decision to withdraw cash assistance on exports of these products will be admissible with immediate effect *i.e.* exports of these products made on or after the date of issue of this letter will not qualify for the grant of cash assistance.

3. Kindly acknowledge and advise the exporters accordingly.

Yours faithfully,
Sd./- (L. N. SAKLANI)
Director (Export Assistance)

Copy to:—

1. CCI&E (Shri S. G. Bose Mullick)/OSD (Shri P. Bhagat)/ JCCI&E (Shri S. K. Gupta)/DCCI&E (Shri A. Ramachandran)/ DCCI&E (Shri Takhat Ram).

2. JCCI&E, Bombay (with 30 s/cs)/CLA, New Delhi (with 15 s/cs)/JCCI&E, Calcutta (with 10 s/cs), Madras with 15 spare copies.

3. DCCI&E, Ernakulam/Panjim/Kanpur/Hyderabad/Ahmedabad/ Bangalore with 3 s/cs.

4. JD(EP), Bombay/DD(EP), Calcutta/Madras/Ernakulam.

5. Dir. (EA)/DS (ANR)/EP (CAP) Section with 10 s/cs.

6. Department of Economic Affairs (E. P. Section) with 2 spare copies.

7. Federation of Indian Export Organisations, Allahabad Bank Building, Parliament Street, New Delhi.

8. Indian Institute of Foregin Trade, H-24, Green Park Extension, New Delhi.

9. General Manager, ECGC, Express Towers (10th Floor), Nariman Point, Bombay.

10. Federation of India Chamber of Commerce and Industry, Federation House, New Delhi.

11. Director, Division of Trade, Economic Department, RBI, P. B. No. 1026, Bombay.

12. Dr. D. K. Ghosh, Chief, International Trade, Planning Commission, New Delhi.

13. Dr. Nau Nihal Singh, Director, Office of the DC (SSI), Nirman Bhavan, New Delhi with 20 spare copies.

14. Shri S. K. Sanyal, Chief Auditor, Department of E.A., New Delhi.

15. Administrator, Kandla Free Trade Zone, Ghandhidam, Kandla.

16. Shri M. P. Modi, Dy. Secretary, Deptt. of E.A., New Delhi.

17. Shri S. N. Agarwal, Under Secretary, Deptt. of Expenditure, New Delhi.

18. M|Finance (Deptt. of Exp., Commerce Division), New Delhi.

19. Sri T. N. Tandon, Marketing Manager, The Products and Equipment Corporation, Chandrolak Building, New Delhi with 3 spare copies.

20. Shri A. K. Ghosh, Economic Adviser, Deptt. of I.D., New Delhi.

21. Copy also forwarded to:

(A) AG (CWM), New Delhi.

(B) DAG (CWM), Calcutta|Bombay.

(C) AG, Madras/Trivandrum/Allahabad/Ahmedabad/Hyderabad/Bangalore.

(D) Director of Accounts, Panjim, Goa.,

(E) Senior Dy. A. G. Gujarat, Rajkot Branch, Rajkot.

22. Shri H. L. Mansukhani, DCCI&E, Office of the CCI&E with 20 s.cs/JCCI&E (Shri P. C. Nanda).

23 AGCW&M, OAD Wing, Akbar Road, Hutments, New Delhi.

24. Shri M. L. Garg/Information Division, TDA, Bank of Baroda Building, Parliament Street, New Delhi.

25. Guard File/Cash assistance folder/MDF Section.

Sd/- L. N. SAKLANI,
Director (Export Assistance).

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF REPLIES RECEIVED FROM GOVERNMENT

Recommendation

"It is surprising that the firm had claimed and obtained cash assistance to the extent of Rs. 10.50 lakhs and Import replenishment licence for another sum of Rs. 10.50 lakhs on the ground that the silver oxide exported was a drug. This claim was accepted on the basis of the legal opinion given by the Solicitor General. However, on going through the facts of the case as analysed by an Officer on Special Duty in the Office of the Chief Controller of Imports and Exports, it appears that the silver oxide was actually exported as a chemical and hence it was not entitled to any export incentive. The Committee would, therefore, like to know how the cash assitance and the import replenishment licence were allowed in this case apparently without fully going into the fact of the case."

[(S. No. 7 (para 2.34) of Appendix II to the 131st Report (Fifth Lok Sabha)].

Action Taken

The Officer on Special Duty in the Office of the Chief Controller of Imports & Exports in his note dated 8th June 1970, submitted to the Chief Controller, had indicated that Silver Oxide was defined as a chemical item in the Chamber's Technical Dictionary and to be exact is a silver compound. He had given some more arguments also in support of his contention. This note was discussed by the C.C. with one or two officers in the Department and it was decided to seek the advice of the Directorate General of Technical Development on the technical point involved, namely, whether the Silver Oxide could be classified as a drug or a chemical. The Senior Industrial Adviser of DGTD opined in his note dated 28-8-1970 that the very fact that a drug licence was issued by the State Drug Controller for producing the item according to the B.P.C. and used by the consignee at the other end for making medicinal preparations it would be difficult to contend that it is not even a drug intermediate which is entitled to the same incentives as drugs. This view point

was further discussed by the C.C. with the Officer on Special Duty on 3-9-70 in consequence of which a detailed note was prepared involving specific points and this entire note was discussed in an inter Ministry meeting held on 23rd October 1970, when it was decided to seek the opinion of the Ministry of Law.

The Officer on Special Duty discussed the view points as contained in his notes with the Joint Secretary of the Ministry of Law on two different occasions and on both these occasions the Ministry of Law opined that Silver Oxide was a drug. Ultimately in his note dated 28th August 1971, the OSD observed "even if—as interpreted by the Ministry of Law—it is permissible to manufacture Silver Oxide as a drug, under the Drugs and Cosmetics Act, 1940, it could still be held that its export by the party without obtaining export licence from the licensing authority was illegal....." The next higher up of the Officer on Special Duty, Director (Export Assistance) made the following note with regard to his particular point:—

> "So far as the question of whether Silver Oxide is a drug under the Drugs & Cosmetics Act, 1940, is concerned, it seems that the matter is beyond any doubt as per the Law Ministry's note at pages 70-73/N *ante*".

2. When the Director (Export Assistance) submitted this case to Chief Controller of Imports and Exports, he observed as follows:—

> "We would request the Ministry of Law to see this case again. We do not intend to contest their argument that Silver Oxide is a drug within the meaning of the Drug and Cosmetics Act, 1940, and Rule 124 of the Drug and Cosmetics Rules, 1945...."

Again when the matter was discussed by the Chief Controller of Imports and Exports with the Secretary, Ministry of Law, with special regard to another point involved in this case, when the Officer on Special Duty was also present, it was stated by the CCI&E that the Department accepted the opinion of the Ministry of Law that Silver Oxide was a drug of standard quality within the meaning of the Drugs and Cosmetics Act, 1940. This position was also recorded in para 4 of the note dated 27-11-1971 by the Joint Secretary and Legal Adviser of the Ministry of Law. Thus it would be observed that the Officer on Special Duty who had earlier all the time been giving his views that Silver Oxide was chemical and who had an opportunity to discuss this matter several times with the Ministry of Law had no further arguments when the Ministry of Law advised that Silver Oxide was a drug in view of the arguments given by

them. So far as the views of the Solicitor General are concerned, they further confirmed the opinion of the Ministry of Law that Silver Oxide was a drug which the Department, as indicated above, had already accepted.

3. The views of the Officer on Special Duty were over-ruled by the Ministry of Law. The DGTD also had expressed a different view in the matter. The only course open to the Department was either to accept the advice of the Law Ministry and the technical opinion given by the DGTD and classify the exported product as a 'drug' for the purpose of rendering export assistance or ignore their advice and reject the claim. The Officer on Special Duty could not obviously hold any conclusive opinion either from the legal point of view or from the technical angle. Therefore, a rejection of the claim based on his opinion could involve a risk of litigation which, in the circumstances of the case, was not considered expedient.

4. It is, therefore, clear that the cash assistance and the import replenishment licences were allowed in this case after going through each and every aspect involved and after it had been opined by the Ministry of Law and also by the Solicitor General that Silver Oxide was a drug.

[Ministry of Commerce D.O. No. OSD/PAC/Recom/74/614 dated 8th November, 1974].

Recommendation

The Committee are unable to appreciate the manner in which the grant of cash assistance for export of fresh and processed fruits and vegetables was conceived in June, 1970 and the assistance of 20 per cent sanctioned retrospectively for one units in May, 1971 for export of dehydrated onions for the period from 18.7.1970 to 31.3.1972. The unit, however, exported only onions worth Rs. 4.76 lakhs upto July, 1971 as against a target of Rs. 25 lakhs accepted by it and yet the assistance was continued unabated. Significantly enough, the producting during the year 1970 was not reported to the DGTD by the unit. The production during 1971 and 1972 was 548 tonnes. The unit exported only 130 tonnes upto the end of 1971-72 and there was no export thereafter. Thus a major part of the production seems to have been sold in internal market. Surprisingly, at the time of import of machinery by this unit no export obligations as such were imposed on the unit. The Committee are totally unable to accept the explanation that "presumably this was because the product namely dehydrated onions was essentially an item for export and practically

there was hardly any market for it internally." This presumption is obviously wrong in view of what actually happened.

[S. No. 11 (para 3.36) of Appendix II to the 131st Report of PAC (Fifth Lok Sabha)]

Action Taken

The firm could not attain the target fixed for export of dehydrated onions because of the slump in foreign markets. The grant of cash assistance was not linked with the target of export. Their total production of 548 tonnes included dehydrated peas, dehydrated potatoes and dehydrated onions. The production of dehydrated onions in 1971 and 1972 was 228 tonnes and 5 tonnes respectively. Thus a major part of the production of dehydrated onions was exported. However, the reasons for not imposing export obligation have been explained in the Notes on action taken in respect of another recommendation made by P.A.C.

[Ministry of Commerce O. M. No. 3/45/74-EP-Agri.III dated 12.3.75]

Recommendation

The Committee consider it highly improper and *mala fide* to grant cash assistance retrespectively especially to a firm which had specific export obligation. It does not serve the purpose of export promotion at all. According to the Ministry of Commerce itself it is not the normal practice to give assurance of grant of cash assistance with retrespective effect to the trade.

[S. No. 13 (para 3.39) of Appendix II to the 131st Report of PAC (Fifth Lok Sabha)]

Action Taken

Cash assistance is not ordinarily related to the export obligation imposed on any unit. The main purpose of giving cash assistance is to meet part of loss incurred by the exporter because of the difference in the cost of production in India and the rates prevailing in foreign market. It was established in this case that loss incurred on export of dehydrated onions was more than 20 per cent by all the units. Since cash assistance had been given to one unit on the basis of project approach it was felt that different treatment would not be justified. Sanction to the grant of cash assistance to all the units including the unit on which export obligation had been imposed, with effect from the date cash assistance had been sanctioned as a project approach, was issued.

[Ministry of Commerce O.M. No. 3/45/74-EP-Agri. III dated 12.3.75]

Recommendation

The Committee are concerned to find that apart from the two units dealt with above as many as seven units were allowed import of capital goods for the manufacture of dehydrated fruits and vegetables includng onions. In none of these cases has an export obligation been imposed. Further, only four of these units have gone into production. The exports were to the extent of 0.17 lakhs only upto the end of 1972-73. The Committee, therefore, wonder how all these seven units were allowed import of capital goods by the Government and why no export obligation was imposed on them. They regret that precious foreign exchange has been allowed to be wasted without satisfying the export promotion at all.

[S. No. 14 (Para 3.40) of Appendix II to the 131st Report of PAC (Fifth Lok Sabha)]

Action Taken

The machinery is intended for processing of fruits and vegetables and converting the same into dehydrated products. The same machinery can dehydrate onions, besides other fruits and vegetables depending upon the availability from seasons to season, These are agricultural raw materials and as such their availability, quality and price vary from time to time. The machinery was imported under the Indo-Bulgarian trade agreement and no specific export obligation was imposed. Under the Indo-Bulgarian trade agreement, there was provision for import of food processing machinery including dehydration plants and equipments from Bulgaria, besides other capital goods.

[Ministry of Commerce O.M. No. 3/45/74-EP-Agri. III dated 12.3.75]

Recommendation

Considering the fact that the company was specifically set up jointly by a number of paper mills to cater to domestic needs thereby avoiding imports, the grant of incentives of this kind can only be regarded as unwarranted and motivated. The explanation that the smaller paper mills could not initially use the variety of pulp produced by this company raises two questions : why was this aspect not considered at the time of granting licence to this company?; and why was it not ensured that the smaller paper mills got over the technical difficulties sooner? These call for an explanation from Government in the Ministry of Industry & Civil Supplies.

[Sl. No. 17 (Para 4.31) of Appendix II to 131st Report of Public Accounts Committee (Fifth Lok Sabha)]

Action Taken

The grant of export assistance is a part of the export policy of the Government of India in the Ministry of Commerce, and has been a continuing policy over a considerable period. The economic rational for the grant of export assistance is to remove the burden of indirect taxes on the cost of production of any export item on the ground that the taxes levied by the Government of India are really for Indian citizens and Indian consumers and not for the foreign buyer. Export assistance is generally necessary in order to ensure that the exporter of Indian products suffers no disabilities (by way of taxes and other imports) to which his competitors abroad is not subject. This is a general policy, and is part of the Commerce Ministry policy of encouraging exports.

2. The level of export assistance to be given for export of any item is a matter entirely for the Ministry of Commerce to decide on an examination of the merits of each case. It is also relevant to note that most growing export items today (like engineering goods) are products of industries which had been set up for purposes of import substitution. There is, therefore, no basic inconsistency in allowing exports of items which may have been set up initially for import substitution. Indeed, in order to earn foreign exchange, India has frequently exported items in which it is in short supply, as for instance, cement, sugar and basmati rice lately.

3. There is also no inconsistency in both exporting and importing the same item. Raw Cotton is a classic case where short staple cotton is permitted for exports because our mills are not able to spin this cotton, while we import medium and longer staple cotton. The technical suitability of inputs, therefore, determines the need for and the basis of international commerce.

4. In the Central Pulp Mills case, it had earlier been emphasised that smaller paper mills could not initially use the variety of pulp produced by this particular company because of technical reasons. The two questions raised in this connection are : first, why was this aspect not considered at the time of granting the industrial licence to this company; and secondly, why was it not ensured that the smaller paper mills got over the technical difficulties sooner.

5. In any process industry, technical and technological teething problems are matters which cannot always be foreseen at the inception of a company. When the Central Pulp Mills set up its production facility, there were some problems as to the fibre length and the moisture content and the use of the pulp was therefore not

taken up as rapidly as earlier planned, because of these technical problems. The raw materials available to the Central Pulp Mills—primarily bamboo and other hard woods—would produce pulp which was of shorter fibre length than required by the smaller paper mills who used mainly rags, waste paper and other waste materials; and the unsuitability of the Central Pulp Mills pulp beyond a certain percentage only emerged after trial runs and actual use of the "furnish" given by the mixture of rags and waste paper and the Central Pulp Mills pulp. The wetness of the pulp was a technical problem which could be overcome only after some time.

6. It will also be seen from the following figures of production and exports over the years under reference that exports had actually come down in 1971-72 as compared to 1970-71, and further, that availability (and use) of Central Pulp Mills pulp had also slowly increased significantly over the years, and that there was improvement in the off-take of pulp by the smaller paper mills as the technical problems of wetness of pulp were overcome.

Year	Production (tonnes) (Calendar years).	Exports (tonnes) (fiscal years)	Availability for use within the country (tonnes approx.)
1969/1969-70	17,787	5,077	12,710
1970/1970-71	23,316	7,855	15,461
1971/1971-72	21,852	1,562	20,290

7. The Short point is that process problems cannot always be forecast or foreseen and teething problems and problems of quality at least in initial stages of production are perhaps inherent in regard to processing industries. Another problem that arose after this company came into production is that the economy which had gone into a slump in 1966-67 continued to be in a state of recession for a number of years. The demand for paper remained somewhat weak in the years under reference, and the smaller paper mills presumably found that use of their conventional raw materials was easier for them, because of the technical problems involved in the use of the Central Pulp Mills pulp, until the problems in regard to drying of pulp and fibrous strength of the pulp could be resolved.

[Ministry of Industry & Civil Supplies O.M. No. 3(71)/74-Paper dated 31.1.75]

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

Apparently there was no justification for the grant of cash assistance in this case. The Committee understand that the cash assistance of 10 per cent was granted accepting the marginal cost of production of Rs. 862 per tonne and the average f.o.b. realisation at Rs. 750. The average realisation was worked out on the basis that the realisation would be Rs. 862.5 and Rs. 652 in respect of exports to Thailand and Philippines, respectively. Thus if all the exports had been to Thailand there would appear to be no case for cash assistance. The Committee would like to know why this was not ensured and what was the actual quantum of exports to Thailand and Philippines as well as the average realisation per tonne.

[S. No. 19 (para No. 4.33) of Appendix II to the 131st Report of PAC (Fifth Lok Sabha)]

Action Taken

"Bamboo Pulp" is not separately specified in the Monthly Statistics of Foreign Trade publication by the Director General, Commercial Intelligence and Statistics, Calcutta. However, the statistics furnished by the Chemicals and Allied Products Export Promotion Council, Calcutta based on the returns received from the exporters shows the following export figures to Thailand during 1969-70 and 1970-71 with the f. o. b. realisation per M. Tonne:—

Year	Country	Qty. (M. T.)	Value '000	F.O.B. Price Per M. T.
	THAILAND			
1969-70 . .		3080	2997·4	973
1970- 1 . .		591	646·1	1093

2. During the subsequent years no exports were made to Thailand. Bamboo Pulp was not exported to Philippines at all during any of the above years. It may be stated that the rate of cash assistance is determined on the basis of the data furnished by the exporters and recommended by the Export Promoton Councils and it is not always

possible to anticipate the final realisation which would be made on exports. In this particular case, the data furnished at the time of determining the rate of cash assistance showed that there would be a loss on the exports. Since the cash assistance was no longer justified on this particular item, Government has withdrawn it with effect from the 8th January, 1974.

3. As regards the observatons of the Public Accounts Committee as to why it was not ensured that all the exports were to Thailand, it may be stated that it is not always possible to ensure all the exports to a particular country in a free international economy where there is a free play of demand and supply.

This has the approval of Secretary.

[Ministry of Commerce D. O. No. 11/53/74-EP (CAP) dated 4.3.75]

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE GIVEN INTERIM REPLIES

Recommendations

After examining the grant of cash assistance of Rs. 42 lakhs to a company (M/s. Jaipur Metals and Electricals Ltd., Jaipur) for the export of 3,000 tonnes of copper conductors as a special case, the Committee cannot but hold it as absolutely unjustified for the following reasons:

(i) The company had on 24th June, 1968 submitted a statement which indicated a loss of Rs. 40.83 lakhs. Subsequently when the Government Cost Accountant went into the matter the company seemed to have given different deliberately inflated data/information on the basis of which a loss of Rs. 68 lakhs was made out. (This includes Rs. 14 lakhs of normal overhheads which are admittedly not to be taken into account).

(ii) The company had claimed that it had to reduce its original quotation in the face of severe competition from foreign firms because of devaluation of sterling and it was prepared to substantiate it by documentary evidence. This was to be verified by the Cost Accountant. The Cost Accountant had, however, pointed out in his report of January 1969 that there was no means to verify by documentary evidence the existence of any lower foreign offer or the company being compelled to reduce its price due to such foreign competition. In this connection the Committee find that under item 3 of the Conditions of the Agency Agreement executed retrospectively from 1st January, 1967 with a firm established in the country to which the exports took place, the company's agent was required to send regular reports as to the demands, prices, the market situation and "the activity of the competition." In the absence of any such report regarding the compe-

tion, the claim of the company can only be regarded as false and motivated.

(iii) The company had sent its quotation on 1st September, 1967 for 2,000 tonnes of copper conductors to its agent @ 1310 dollars per tonne c.i.f. and on 2nd September, 1967, the agent firm had sent the quotation to the foreign purchasing organisation of 1250 dollars per tonne c.i.f. The agency agreement stipulated that the agent might submit quotations based on prices and conditions fixed by the company only. The Committee have been informed that the quotation dated 1st September, 1967 was submitted to the agent firm by one of the company's senior executives who was then in the foreign country concerned and that the subsequent reduction was given by the agent firm in consultation with the company's representative. It is not, however, clear who was the senior executive present in the foreign country at that time. (It could be presumed that he is one of those connected with the agent firms). On further negotiations the rate was reduced as ranging from 1237.60 dollars to 1241.50 dollars. The justification for the successive reductions does not appear to have been gone into by Government.

(iv) The rates quoted by the firm were based on the price of £ 350 per tonnes of copper bars in the London Metal Exchange and the final contract price was to be adjusted according to copper price variation clause. However, by a separate agreement dated 28th May, 1968, the parties had amended the original contract changing the base price of copper in London Metal Exchange from £ 350 to £ 408, S6, d8. This accounted for a loss realisation of Rs. 31.5 lakhs. The company had explained that this had to be done in order to increase the scope of the contract from 2,000 tonnes to 3,000 tonnes. However, there have been no pressure from the foreign buyer to change the basis and on the contrary it is seen from the letter of intent of the foreign organisation dated 31st January, 1968 sent to the agent of the company that they have agreed to the basic copper price of £ 350 even in regard to one additional supply of 1,000 tonnes. In any case there was no justification to change the basis, as the price for the initial 2,000 tonnes was quoted before the devaluation of £ sterling in November, 1967.

(v) The Committee understand that the levels of cash compensatory support are fixed by the Government on the

marginal costing criterion without taking into account certain elements such as commission to agents. However, in this case the cost is computed taking into account the agency commission of Rs. 17.19 lakhs. According to the Cost Accountant there is no evidence of the foreign firm working as an agent of the company, in the correspondence exchange between them.

(vi) The Committee find discrepancy in the specification and quantity of the copper conductors to be exported and the conductors actually produced for exports during the years 1968-69 and 1969-70.

(vii) The Cost Accountant had suggested that since most of the costs detailed in his report were estimates and since the major portion of the cost was still then to be incurred, the company might be asked to submit details of the actual expenses duly certified by its auditors after completion of the order. Strangely, the company is stated to have expressed its inability to segregate expenses relating to the particular contract. This was obviously done to prevent exposure.

The Committee also note with serious concern that the whole deal is full of malpractices, concoction and fraud and on this basis penal action should be initiated immediately under advice to them. It should be explained why this has not been done so far. It is seen from the contract executed between the foreign purchasing organisation and the Indian company that the same person represented the company as well as its agent. The copy of the contract does not even indicate the date on which it was executed although it is stated to have been executed on 21st January, 1963. Although the agent seems to have signed the contract on behalf of the Indian company, the agency agreement itself is stated to have been executed on 22nd February, 1968, a month after the purchase contract was signed. A copy of the so-called agency agreement furnished to the Committee does not indicate the date on which it was executed nor does it indicate the persons who signed the agreement on behalf of the company and its agent. It is also seen from the letter dated 20th January, 1969 from another foreign firm to the Indian company that the former were to be the agent and that because the other firm had signed the contract with the foreign organisation on behalf of the Indian company, the agency agreement had to be executed with it. Further, the permission of the Reserve Bank for entering into the agency agreement had been given only in April 1969 and, therefore, it is certain the agency agreement could not have been executed before that date.

The two foreign firms had two Indian citizens as partners each and one of the partners was common to both. The other partner in the firm which acted as an agent of the Indian company subsequently became a director of the latter w.e.f. 25th June, 1968 and he had participated in the discussion with the Government in connection with the grant of cash assistance. Surprisingly, in his income-tax returns he had not indicated his association with the foreign firm nor had he returned any income from the foreign firm. As there appears to be a clear case of fraud and evasion of tax, the matter requires a thorough probe and immediate action under advice to the Committee. If involvement of any officials is found that too should be taken care of.

[Sl. No. 1 (para 1.69), 2 (para 1.70) and 3 (para 1.71) of Appendix II to 131st Report (5th Lok Sabha.)]

Action Taken

In the summary of main Conclusions/Recommendations given at Appendix II of the Report, the observations of the PAC at S. No. 1-3 are in the nature of conclusions arrived at by the PAC. The operative part of their recommendations is set out at S. Nos. 4-5 of the aforesaid summary which required reference of the case to C.B.I. and F.E. Enforcement Directorate for investigation with a view to taking further action. Since a complaint has been filed with the C.B.I. and Enforcement Directorate on 1st August, 1974, the reply already sent to the Lok Sabha Secretariat may be treated as reply in respect of all points.

As regards the latest position, it may be stated that on receipt of the complaint, the C.B.I. officers collected all the connected files and papers on 10th January, 1975 for detailed investigation.

[Ministry of Commerce D.O. No. G-25015/15/74-B&A dated the 18th March, 1975.]

Recommendation

In view of all that is detailed above, the Committee strongly feel that the Indian company and the two foreign firms were of same origin, ownership and control and that there had been extreme manipulation/misrepresentation to make unlawful gains. They accordingly desire that the case should be handed over to the CBI and Foreign Exchange Enforcement Directorate immediately for a detailed probe with the instructions that it should be done expeditiously with a view to launching prosecution against the offenders

including Government officials who were responsible to take care of country's interests. The Committee would await a report in this regard within three months.

It is also clear that the proposals of the company and the various claims made and documents produced by it have not at all been carefully scrutinised by the various authorities of Government obviously to give advantage to the offender. The Committee, therefore, desire that because it is a serious economic offence on the basis of CBI and Foreign Exchange Enforcement Directorate investigations, severe and exemplary action should be taken against the officers for their lapses under advice to them.

[S. No. 4, para 1.72 and S. No. 5 para 1.73 of Appendix II of the 131st Report (Fifth Lok Sabha).]

Action Taken

Through separate communications addressed to each, the matter has been referred to the C.B.I. and the Foreign Exchange Enforcement Directorate for detailed investigation and report. The Public Accounts Committee will be informed when the results of investigations become known.

[Ministry of Commerce O.M. No. 15(15)/74-EP (Engg.) dated 20-12-74.]

Recommendation

Silver essentially serves as a second line of free foreign exchange reserve for our country and its export is wholly against national interest. A firm in Madras (M/s. Dadha Drugs and Pharmaceuticals Pvt. Ltd.) had been exporting silver nitrate. Silver nitrate is a silver salt with 63.5 per cent silver content. Metallic silver can be easily recovered from silver nitrate. An amendment to the Export Control Order, 1968 was proposed by the Chief Controller of Imports and Exports to ban export of "manufactures and products wholly or mainly of silver including chemicals." The amendment was, however, carried out by the Ministry of Commerce w.e.f. 26th January, 1969 in consultation with the Industrial Adviser to read as "manufactures and products wholly or mainly of silver and silver salts with more than 5 per cent silver content" leaving a loophole in the law which could be exploited by unscrupulous exporters of silver. This prohibited export of only silver nitrate which is a silver salt. Immediately thereafter, between the period February to June, 1969, the Madras firm exported Rs. 52.51 lakhs worth of silver oxide to an East European country. The silver metal content of silver oxide is

98.1 per cent and is very easily recoverable. To plug the loophole in the Export Control Order, 1968, it had to be further amended on 23rd July, 1969 to prohibit also export of silver chemicals and compounds with more than 50 per cent silver content. The Committee are very much concerned that a loophole was kept while initially amending the Export Control Order which was successfully exploited Internationally by the firm to move silver out of the country in the guise of silver oxide. They desire that responsibility should be fixed for this lack of care in drafting the amendment and action taken under advice to them.

[Ministry of Commerce D.O. No. 25015/15/74-B&A, dated the 18th March, 1975.]

Action Taken

CCI&E has addressed a communication to the Central Board of Excise & Customs and a reply from them is awaited.

[Ministry of Commerce D.O. No. 25015/15/74-B&A, dated the 18th March, 1975.]

Recommendations

"It appears that the firm had indulged in serious malpractices under the very nose of the Government as indicated below:—

(i) It seems that the foreign buyer required to product to be packed in polysthylene jars; although according to BPC 1934 specification, silver oxide for being use as a medicine was required to be stored in "ambertinted bottles."

(ii) The original specification given in the purchase order as "BP & Merck Index 7th ed." applicable to chemical seems to have been substituted by "BPC 34" without being attested by the foreign buyer.

(iii) The export Control Order was initially amended on 22nd January, 1969. Within a month and 4 days thereafter the firm finalised the deal to export 14,000 Kgs. of silver exide valued at Rs. 58.45 lakhs with the foreign firm. Within another month they obtained the necessary licence from the State Drugs Controller and formal orders from the foreign firm and received from the bankers of the exporter advice the letter of credit had been opened. Further, 4 consignments were exported between the period 24th March, 1959 to 31st March, 1960.

Thus in the words of Officer on Special Duty "the whole thing was so neatly planned, conspired and executed to defraud the Government and the party succeeded in exporting huge quantities of silver in the shape of silver oxide in a few months." There seems to have been a multiple collusion with the foreign buyer. The Committee understand that years ago silver oxide was being used as a drug for treatment of hysteria but is no longer used so. The utility of such a huge quantity (roughly 11 crore doses) as drug imported into a small country within such a short period from a firm which did not export it earlier, is seriously in doubt. Further, it appears that the exports were under-valued. The Committee fail to understand how unless some officials were involved it would have been possible for the exporters to complete their job so successfully. The Committee would, therefore, very much require that the matter would be immediately handed over to the CBI and Enforcement Branch for a probe. Persons found guilty of such a heinous economic offence should get exemplary punishment."

[S. No. 8 (para 2.35) and S. No. 9 (para 2.36) of Appendix II to the 131st Report (Fifth Lok Sabha).]

Action Taken

It has been decided to refer the case to the C.B.I. and Enforcement Branch as recommended by the Public Accounts Committee. The letters to these authorities are under issue.

[Ministry of Commerce D.O. No. OSD/PAC/Recom/74/1776 dated 9-12-1974.]

Recommendation

Incidentally the Committee understand from Central Food Technological Institute, Mysore that the yield of dehydrated onions will be 11 per cent on the basis that the moisture content of the finished product is less than 6 per cent. The Government, however, seems to have accepted the claim of the unit on the basis of 9 per cent yield although the moisture content was permitted upto 8 per cent. In view of this, justification for the quantum of cash assistance should be gone into. Further, the profits made by this unit should be assessed properly from tax angle.

[S. No. 12 (Para 3.37) of Appendix II to the 131st Report of PAC (Fifth Lok Sabha).]

Action Taken

The yield of onions depends largely on the variety and quality of fresh onions and their solid contents. A group of officers visited the factory and verified from their records that their claim of 9 per cent yield was correct. The Cost Accounts Branch of the Ministry of Finance has been requested to undertake cost study of a few units manufacturing dehydrated onions. The point raised in the above recommendation will also be examined by the Cost Accounts Branch.

The Ministry of Finance have since confirmed that the profits made by the Unit have been assessed properly from tax angle.

[Ministry of Commerce O.M. No. 3/45/74-EP-Agri. III, dated 12-3-75.]

NEW DELHI;
April 28, 1975

Vaisakha 8, 1897 (*Saka*)

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

APPENDIX

Summary of main Conclusions/Recommendations

Sl. No.	Para No.	Ministry concerned	Conclusion/Recommendation
1	2	3	4
1	1.8	Commerce (Deptt. of Foreign Trade,)	The Committee while commenting adversely against the grant of cash assistance of Rs. 42 lakhs to M/s. Jaipur Metals and Electricals, had *inter alia* observed that "the whole deal is full of malpractices, concoction and fraud and on this basis penal action should be initiated immediately under advice to them. It should be explained why this has not been done so far." The Committee had further observed that "as there appears to be a clear case of fraud and evasion of tax the matter requires a thorough probe and immediate action under advice to the Committee. If involvement of any officials is found, that too should be taken care of." Since there had been "extreme manipulation/misrepresentation to make unlawful gains," the Committee had desired that the case should be handed over to the C.B.I. and Foreign Exchange Enforcement Directorate immediately for a detailed probe with the instructions that it should be done expeditiously with a view to launching prosecution against offenders including Government officials who were responsible to take care of the country's interests. The Committee had also observed that 'because it is a serious economic offence' on the basis of C.B.I. and Foreign Exchange Enforcement Directorate investigations, severe and exemplary action should be taken against the officers for their lapses under advice to them.

1	2	3	4
2	1.9	Commerce (Deptt. of Foreign Trade)	This recommendation was sent to the Ministry on 29th April, 1974. All that the Ministry appears to have done till March, 1975, is to collect all the papers and files, which they did only on 10th January, 1975. This is most deplorable and gives rise to serious suspicion of malpractice in the Ministry itself. The Minister should be kept informed and the outcome of the action taken should be reported to the House within 3 months and it should also be reflected in the annual report of the Ministry.
3	1.10	do	The economic offences committed relating to the aforesaid deal are very serious. Every effort should therefore be made to see that investigation is completed expeditiously and further penal action taken thereafter immediately. C.B.I. should be asked to give this investigation a very highly priority. The Committee desire the Government to ensure that appropriate action is taken against all concerned in the various suspected malpractices at the earliest possible date. The Committee would like to be kept informed of the progress made in this case.
4	1.12	do	The Committee had expressed their concern that "a loophole was kept while initially amending the Export Control Order which was successfully exploited internationally by the firm to move silver out of the country in the guise of silver oxide". The Committee had accordingly desired that "responsibility should be fixed for this lack of care in drafting the amendment and action taken under advice to them".

			The Committee are distressed to note that the question of fixing responsibility in leaving the loophole in the drafting of the Export Control Order is hanging fire for an inordinately long time although the findings of the Committee were made known to the Government on the 29th April, 1974. The Committee require that the final action in probing the matter and fixing the responsibility should be completed within 3 months.
5	1.13	-do-	The Committee, while pointing out that in this case "there seems to have been a multiple collusion with the foreign buyer" and that "it appears that the exports were under-valued", had observed "how unless some officials were involved, it would have been possible for the exporters to complete their job so successfully". The Committee had therefore desired that "the matter should be immediately handed over to the C.B.I. and Enforcement Branch for a probe. The persons found guilty of such a heinous economic offence should get exemplary punishment". The Committee note that the matter was referred to C.B.I. and Enforcement Branch some time in October, 1974, after a lapse of about 6 months. The Committe have not till date been informed how the matter stands. The Committee deplore this attitude and require the Government to take action so that the investigation is expedited. The outcome should be reported to the House within 3 months. The Committee would emphasize that in matters of economic offences, probe should be completed expeditiously and action taken thereon at the earliest. The Committee would await the results of C.B.I. investigations in the matter.

1	2	3	4
6	1.14	Commerce (Deptt. of Foreign Trade)	The Committee had also observed that "Arising out of this case is the basic question how import replenishment could be allowed for an item of export which does not have any import content. It is obvious that such items should be altogether excluded from the purview of the import replenishment schemes". The Committee had desired the Ministry of Commerce "to take steps to ensure that export incentive is not abused in any manner. Economic offences should be curbed ruthlessly and none should be spared". The Committee note that the Government have taken the following "steps to minimise opportunities for abuse" of export incentive:— (i) Import of a number of items, considered to be sensitive, have been disallowed under the provision of flexibility; (ii) items are allowed to be imported against a REP licence on the basis of the actual user licence, only where the actual user licence pertains to the same Product Group to which the REP licence belongs; (iii) face value restrictions have been imposed on the items where indigenous production has developed to meet a sizeable part of the domestic demand; and (iv) a value limit has been imposed up to which only the manufacturer can obtain nominations.

7	1.15	-do-	The Committee, however, do not understand why the Government has not found it possible to go the whole way and declare that no import replenishment licence would be granted against the export of those commodities which do not have any import content and also that such licences would not be allowed to be transferred or utilised for import of machinery, instruments, tools, fixtures and spare parts which are not required for the production or processing of export commodities. The Committee desire that the Government should re-examine the question and take action along lines recommended by the Committee unless there are overwhelming reasons against it. It should be reflected in the Annual Report of the Ministry.
8	1.18	-do-	In this case, the firm had claimed the cost of production of dehydrated onion on the basis of 9 per cent yield with a moisture content permissible upto 8 per cent. The Government had accepted this claim for calculating rate of cash assistance. However, the Committee were given to understand by the Central Food Technological Institute, Mysore, that the yield of dehydrated onion was 11 per cent on the basis that the moisture content of the finished product was less than 6 per cent. In view of this, the Committee had desired that "justification for the quantum of such assistance should be gone into". The Committee note that the Cost Accounts Branch of the Ministry of Finance has been requested by the Ministry of Commerce to undertake a cost study of a few units manufacturing dehydrated onions and that the point raised by the Committee will be examined by the Cost Accounts Branch. The

1	2	3	4
			Committee desire that the result of such study should be communicated to them at the earliest. The Committee desire that the cost studies to be undertaken by the Cost Accounts Branch of the Ministry of Finance should go into the economics of production not only of exporting units but also of some atleast of the units which produce dehydrated onions for home consumption.
9	1.21	Commerce (Deptt. of Foreign Trade)	In this case, the Committee had found that "a cash assistance of 10 per cent for exports upto 5,000 tonnes of bamboo pulp were sanctioned to the company for the year 1969-70. Evidently because this sanction was not quite clear, the concerned Export Promotion Council informed the company that the assistance of 10 per cent would be continued during 1970-71 also. However, by a subsequent sanction issued by Government in March, 1972 the assistance continued upto 31st March, 1973. The retrospective sanction issued in this case resulted in payment of Rs. 12.25 lakhs to the company".
10	1.22	-do-	The Committee had expressed the view that there was no justification for the grant of cash assistance in this case. The Committee had been given to understand that the cash assistance of 10 per cent was granted to the Central Paper Mills accepting the marginal cost of production of Rs. 862 per tonne and the average f.o.b. realisation at Rs. 750. The average realisation was worked out on the basis that the realisation would be Rs. 862.5 and Rs. 652 in respect of exports

to Thailand and Philippines, respectively. The Committee had felt that "if all the exports had been to Thailand there would appear to be no case for cash assistance". The Ministry of Commerce, on the basis of the statistics furnished by the Chemicals & Allied Products Export Promotion Council, Calcutta, have furnished the following export figures to Thailand during 1969-70 and 1970-71 with the f.o.b. realisaton per M. Tonne:

Year	Country	Qty. (M. T.)	Value'000	f. o. b. price per M. T.
1969-70	Thailand	3,080	2,297.4	973
1970-71		591	646.1	1093

II 1.23 -do- The Ministry have also stated that "during subsequent years no exports were made to Thailand and that bamboo pulp was not exported to Philippines at all during any of the above years". The Ministry have also stated that "the rate of cash assistance is determined on the basis of the data furnished by the exporters and recommended by the Export Promotion Councils and it is not always possible to anticipate the final realisation which would be made on exports and that in this particular case, the data furnished at the time of determining the rate of cash assistance showed that there would be a loss on the exports." The Committee's apprehension has now been confirmed. The exporting mill did not suffer any loss in

1	2	3	4
			export of bamboo pulp. Rather, as seen from the f.o.b. realisations, the Central Paper Mills had made profits out of the export rather than suffered any loss.
12	1.24	Commerce (Deptt. of Foreign Trade)	From the reply given by the Ministry, it is evident that reliance should not have been placed so implicitly on the data furnished by the exporters or the Export Promotion Council.
13	1.25	-do-	In this case, it is clear that the exporter obtained a much higher price than was indicated to the Ministry and had the Ministry been aware of this, no cash assistance would have been payable.
14	1.26	-do-	The Committee require that the rate of cash assistance should not at all based entirely on the data furnished by the exporters or by the Export Promotion Councils, but be determined by a meticulous examination of all the relevant facts relating to the cost of production as also of international prices should be carried out.
15	1.27	-do-	The Committee also require that grant of cash assistance should be subjected to condition that in case the f.o.b. realisation is higher than f.o.b. cost shown the amount paid to the exporters shall be recovered proportionately.

GMGIPND—M—718 L. S